

## New Hampshire court ponders murder victim's privacy

By **HOLLY RAMER** AP, September 21, 2016



This undated family photo shows Elizabeth “Lizzi” Marriott. —*Britney Atwood / AP*

CONCORD, N.H. (AP) — The New Hampshire Supreme Court is deciding whether details of a young woman’s sexual history should remain private after her rape and murder in a case that advocates say could mark the first time a state strips away key protections for victims.

Elizabeth “Lizzi” Marriott, of Westborough, Massachusetts, was a 19-year-old sophomore at the University of New Hampshire when she was killed in 2012. Seth Mazzaglia was convicted of her murder and is serving a life sentence, but on

appeal argues the trial court should have allowed him to introduce evidence about Marriott's past.

During his trial, Mazzaglia denied raping and killing Marriott but said he helped cover up the murder. His girlfriend at the time testified that she lured Marriott to Mazzaglia's apartment as a sexual offering and that Mazzaglia strangled Marriott when she refused his advances.

In June, the New Hampshire Supreme Court ruled that information about Marriott's sexual activity that had been sealed during the trial should be made public during the appeals process, prompting objections from prosecutors and Marriott's family. On Wednesday, lawyers from both sides made their case to the court.

Assistant Attorney General Peter Hinckley argued that Marriott's right to privacy outweighs the public's right to a fully open court system. He asked the court to hold oral arguments on Mazzaglia's appeal behind closed doors, and then release a transcript later with private information blacked out.

"We're in no way seeking to minimize or downplay the important public right to access, but on rare occasions that constitutional right gives way to other compelling interests. This case, we're saying, is one of those unique, rare cases in which some limited safeguards should be used," he said.

Mazzaglia's attorney argued that the court should not conduct the appellate process behind closed doors and on the basis of a secret record.

"Openness leads to accountability, and accountability leads to quality," said attorney Christopher Johnson. "The public has to be able to judge the judges."

But Justice Carol Ann Conboy noted that the court often makes decisions regarding private information. For example, in deciding whether a trial court judge should have given defense counsel access to mental health records, justices read the records and issue an opinion without making the information public.

"In that case the public has no idea what was in those records. Why isn't that an appropriate analogy?" she asked.

At issue is whether the state's rape shield law, which is intended to protect rape victims from having their personal information revealed during criminal proceedings, applies to both trials and appeals. Every state has such laws, and the New Hampshire case could effectively eviscerate them, said Lyn Schollett, executive director of the New Hampshire Coalition Against Domestic and Sexual Violence.

"If these protections are stripped away, we return to the dialogue we were having about rape victims in the 1970s," she said. "No other state in the country takes away these protections on appeal. If a victim's reputation is not protected in the trial court, fewer victims will come forward. When victims don't come forward, fewer cases are prosecuted and our public safety as a state is compromised."

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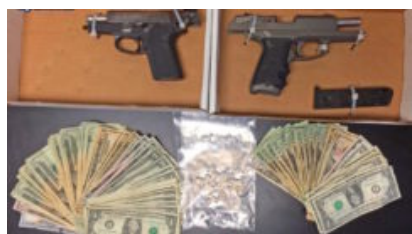
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